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MAR 08 2005

In re Application of:
Mark W. Miles
Serial No.: 09/413,222
Filed: October 5, 1999
Attorney Docket No.: IRDM.056CP

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed October 24, 2003, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181.

The petition is **GRANTED**.

A Notice of Allowance and Fee(s) Due (Notice of Allowance) was mailed on October 21, 2002. Petitioner timely filed a Request for Continued Examination (RCE) on January 24, 2003 with a certificate of mailing dated January 21, 2003. Subsequently, another Notice of Allowance and Fee(s) Due (Notice of Allowance) was mailed on March 11, 2003. The application was held abandoned for failure to timely pay the issue fee in response to this Notice of Allowance. A Notice of Abandonment was mailed on August 29, 2003.

A review of the written record indicates that petitioner apparently did not receive the Notice of Allowance mailed on March 11, 2003. This is based on the fact that petitioner asserts that no issue fee was due for the Notice of Allowance mailed on October 21, 2002 since the RCE was timely filed on January 24, 2003. It is apparent that petitioner is not aware of the Notice of Allowance mailed on March 11, 2003.

A further review of the written record reveals that a proper Change in Power of Attorney filed on June 18, 2002 was not entered into the Patent Application Location and Monitoring (PALM) computer system. Accordingly, the Notices of Allowance mailed on October 21, 2002 and March 11, 2003 were mailed to the previous attorney of record. It is presumed that petitioner was forwarded a copy of the Notice of Allowance mailed October 21, 2002, but not the Notice of Allowance mailed March 11, 2003.

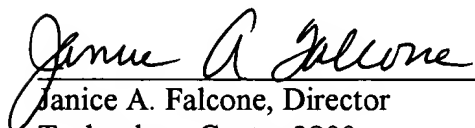
Although petitioner has not provided a showing that establishes non-receipt of the Notice of Allowance mailed March 11, 2003 in accordance with M.P.E.P. § 711.03(c), it has been

established that the Notices of Allowance were mailed to the incorrect old address due to an error by the Office. Accordingly, the application was not abandoned in fact.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notice of Allowability and a Notice of Allowance and Issue Fee Due. The statutory periods for response set therein will be reset to run from the date the Notices are re-mailed. Extensions of time for these periods are not available.

Inquiries regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.



Janice A. Falcone, Director
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